

LEVI HUEBNER & ASSOCIATES, PC

ATTORNEYS AND COUNSELORS AT LAW

488 EMPIRE BOULEVARD, SUITE 100

BROOKLYN, NY 11225

TEL: (212) 354-5555

FAX: (718) 636-4444

EMAIL: NEWYORKLAWYER@MSN.COM

November 3, 2023

Honorable Judge Dale E. Ho
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: **Shlomo Braun v. Chartwell, 1:23-cv-08887-DEH-OTW**

Honorable Judge Ho:

We represent the Plaintiff, Rabbi Shlomo Braun who first appeared in this matter on November 1, 2023, see [ECF 12].

Plaintiff respectfully requests a pre-motion conference, to set a briefing schedule and also regarding Plaintiff's within application to hold in abeyance the Defendant's Motion seeking to Dismiss, Motion for Summary Judgment¹, Transfer to the Eastern District and Consolidation [ECF 6 – 9] (the "SMJ Motion") pending the Court's decision of the Plaintiff's motion to remand [ECF 13 – 14]² (the "Remand Motion") for the reasons denoted below.

Plaintiff duly brought the Remand Motion pursuant to 28 U.S.C.A. §§ 1446(a), 1447(c), 1447(d) and Article III on substantive, procedural, and *jurisdictional* grounds. As such, to avoid wasting the resources of the parties, their counsel, and the Court, the Plaintiff is respectfully requesting that the Defendant's SMJ Motion be held in abeyance³ until this Court has decided the Plaintiff's Remand Motion.

¹ The Defendant in its pre-motion conference letter [ECF 3] did not inform the Court that the Defendant had previously moved for summary judgment regarding this action, nor that the Honorable Judge Orelia E. Merchant of the Eastern District, by Summary Removal Order dated October 10, 2023, not only remanded the within matter to the Court of the State of New York, New York County but also denied the Defendant's motion for summary judgment as moot.

² On November 1, 2023, Plaintiff filed the Remand Motion and supporting documents as [ECF 11] and thereafter on November 3, 2023, correctly filed the Notice of Motion and Supporting documents separately as [ECF 13 & 14].

³ During a phone conference today, the counsel for the Defendant consented to the within application to hold the Defendant's SMJ Motion in abeyance pending the Court's decision of the Plaintiff's Remand Motion.

Before this Court, the Defendant initially filed its SMJ Motion via [ECF 5 – 5-39] on October 20, 2023, alleging to have served same upon the office of the undersigned by first class mail on October 20, 2023, See [ECF 5-39 & 10]. However, this office has never received the purported mailing.

Furthermore, before Plaintiff appeared before this Court, the Defendant filed its corrected SMJ Motion and Proposed Order on October 26, 2023, See, [ECF 6 – 9]. Notably, the Defendant did not serve the corrected SMJ Motion upon the undersigned.

In contravention of Your Honor’s Individual Rules, the Defendant did not comply with the following:

- a. As required by Your Honor’s Individual Rules 4. f. ii. in its pre-motion conference letter, [ECF 3] the Defendant did not inform the Court that the SMJ Motion is the Defendants second and successive motion for Summary Judgment and the Defendant did not seek “prior Court approval” before filing same.
- b. The Defendant in contravention of Your Honor’s Individual Rules 4. f. iii., did not furnish the undersigned “with an electronic copy, in Microsoft Word format, of the moving party’s Statement of Material Facts Pursuant to Local Rule 56.1 (‘Rule 56.1 Statement’).”

The Plaintiff’s position is that the Defendants SMJ Motion has not been properly made and or served.

Notwithstanding the foregoing, after Plaintiff filed its Motion to Remand, this day, the undersigned had a conference with Mathew Burrows, counsel for Defendant, who consented to the within application requesting that the Defendants SMJ Motion be held in abeyance pending the Court’s decision of the Plaintiff’s Remand Motion, and for a conference to set a briefing schedule.

Respectfully submitted,

/ s / Levi Huebner

By: Levi Huebner